

**STATE OF MINNESOTA  
DEPARTMENT OF TRANSPORTATION  
And  
CITY OF MINNEAPOLIS  
DETOUR AGREEMENT**

**For Trunk Highway No. 65 Detour**

<b>State Project Number (S.P.):</b>	<u>2710-42</u>	<b>Original Amount Encumbered</b>
<b>Trunk Highway Number (T.H.):</b>	<u>65 = 105</u>	<b><u>\$ \$23,441.77</u></b>

This agreement is between the State of Minnesota, acting through its Commissioner of Transportation ("State") and the City of Minneapolis acting through its City Council ("City").

**Recitals**

1. The State is about to perform grading, concrete paving, bituminous mill and overlay, retaining walls, lighting, and replacing bridge No. 27236 construction upon, along and adjacent to T.H. 65 from 14<sup>th</sup> Avenue to 18<sup>th</sup> Avenue under State Project No. 2710-42 (T.H.65 = 105); and
2. The State requires a detour to carry T.H. 65 traffic on a City road (Johnson Street), during the construction; and
3. The State is willing to reimburse the City for the road life consumed by the detour as hereinafter set forth; and
4. The detour route will require additional striping and traffic signal head revisions in order to accommodate the additional traffic and the City is willing to perform those services; and
5. The State is willing to reimburse the City for the cost of striping and traffic signal head revisions as a result of the detour for T. H. 65 as hereinafter set forth; and
6. Minnesota Statutes § 471.59, subdivision 10, § 161.25, and § 161.20, subdivision 2(b), authorize the parties to enter into this Agreement.

**Agreement**

**1. Term of Agreement; Incorporation of Exhibits**

- 1.1 *Effective date.*** This Agreement will be effective on the date the State obtains all signatures required by Minnesota Statutes § 16C.05, subdivision 2.
- 1.2 *Expiration date.*** This Agreement will expire when the State removes all detour signs, returns the temporary trunk highway detour to the City, and pays the detour road life compensation, striping, and traffic signal head revision construction costs.
- 1.3 *Exhibits.*** Exhibit "A" and "B" are attached showing the detour routes for cars and trucks and are incorporated into this Agreement. Exhibit "C" is attached showing the estimated cost of the striping and traffic signal head revisions and is incorporated into this agreement.

**2. Agreement between the Parties**

**2.1 *Detour***

**A. *Location.*** The State will establish the T.H. 65 detour route on the following City road as detailed in the project plans or Special Provisions:

Johnson Street for a total distance of 1.08 miles.

- B. Axle Loads and Over-Dimension Loads.** The City will permit 9-ton axle loads on the detour route.
- C. Traffic Control Devices.** The State may install, maintain and remove any traffic control devices it considers necessary to properly control the detoured traffic. The State may paint roadway markings, such as the centerline, edge lines and necessary messages.
- D. Detour Maintenance.** The State will perform any necessary bituminous patching and ordinary maintenance on the roadway or shoulder of the City road used for the detour, at no cost or expense to the City. Bituminous patching is defined as any work, including continuous full width overlays, less than 100 feet in length. All State expenditures beyond those required for bituminous patching and ordinary maintenance will be credited against the road life consumed reimbursement due the City.
- E. Duration.** The State will provide the City with advance notice identifying the dates the State intends to place and remove the detour signing.
- F. Basis of State Cost (Road Life Consumed).** The State will reimburse the City for the road life consumed by the detour using the following methods, as set forth in the Detour Management Study Final Report dated January 1991, and updated by MnDOT's Policy on Cost Participation for Cooperative Construction Projects and Maintenance Responsibilities between MnDOT and Local Units of Government. The "Gas Tax Method" formula, multiplies the Combined Tax Factor per mile times the Average Daily Traffic ("ADT") count of vehicles diverted from the Trunk Highway times the City road length in miles times the duration of the detour in days to determine the State's cost for the road life consumed by the detour.
- G.** The City may, at its option, perform an "Equivalent Overlay Method" analysis. A State-approved firm, at no cost or expense to the State, must perform the testing and analysis. The City will keep records and accounts to verify any claim it might bring against the State for additional costs using the "Equivalent Overlay Method."
- 2.2 Striping and Traffic Signal Head Revisions.** The State will reimburse the City for the equipment, material, and labor to install the striping and revise the traffic signal heads as indicated and at the locations listed in Exhibit "C". Payment will be in a lump sum amount of \$16,959.50

### 3. Payment

- 3.1 For Road Life Consumed.** \$6,482.27 is the State's estimated cost for the road life consumed by the detour based on the data below:

<u>Tax Factor</u>	<u>ADT</u>	<u>Road Length</u>	<u>Duration</u> <u>(Days)</u>	<u>Cost</u>
0.00513	6500	1.08	180	\$6,482.27
Total Road Life Consumed				<u>\$6,482.27</u>

The State's total payment for the road life consumed by the detour is equal to the amount computed by using the "Gas Tax Method" formula plus any amount determined by using the "Equivalent Overlay Method" analysis that is in excess of twice the "Gas Tax Method" amount.

- 3.2 For Striping and Signal Head Revisions.** \$16,959.50 is the lump sum amount the State will pay the City for additional work and material as a part of the Trunk Highway No. 65 detour.

**3.3 Total Estimated Amount for Road Life Consumed, Striping, and Signal Head Revisions**

Road Life Consumed	\$6,482.27
Lump Sum Striping and Signal Head Revisions	<u>\$16,959.50</u>
Total Estimated Amount Due	\$23,441.77

**3.4 Maximum Obligation.** \$40,000.00 is the maximum obligation of the State under this Agreement and must not be exceeded unless the maximum obligation is increased by execution of an amendment to this Agreement.

**3.5 Conditions of Payment.** The State will pay the City the State's total road life consumed payment or striping and signal head revision amount after performing the following conditions.

**A.** Execution of this Agreement and the City's receipt of the executed Agreement.

**B.** State's encumbrance of the State's total payment amount.

**C.** Payment for the detour:

3.5.C.1 State's removal of all detour signs.

3.5.C.2 State notifies the City of the removal of the detour signs, and the number of days the detour was in effect.

3.5.C.3 State's receipt of a written request from the City, signed by the State District Engineer's authorized representative, for payment.

**D.** Payment for the striping and traffic signal head revisions:

3.5.D.1 State's receipt of a written verification by an authorized City official that the striping and traffic signal head revisions have been completed at the locations indicated in Exhibit "C".

3.5.D.2 State's receipt of a written request from the City, signed by the State District Engineer's authorized representative, for payment.

**4. Release of Road Restoration Obligations**

By accepting the State's road life consumed, striping, and signal head revision payment plan and total payment amount, the City releases the State of its obligation, under Minnesota Statutes § 161.25, to restore the City road used as a T.H. 65 detour to as good condition as it was before designation as a temporary trunk highway.

**5. Authorized Representatives**

Each party's Authorized Representative is responsible for administering this Agreement and is authorized to give and receive any notice or demand required or permitted by this Agreement.

**5.1** The State's Authorized Representative will be:

Name/Title: Allan Espinoza, MnDOT Metropolitan District Traffic Engineering (or successor)  
Address: 1500 West City Road B2, Roseville, MN 55113  
Telephone: (651) 234-7812.  
Fax: (651) 234-7850.  
E-Mail: [allan.espinoza@state.mn.us](mailto:allan.espinoza@state.mn.us)

**5.2** The City's Authorized Representative will be:

Name/Title: Don Elwood  
Minneapolis Director of Transportation and Planning (or successor)  
Address: 350 South 5<sup>th</sup> Street, RM 203, City Hall, Minneapolis, MN 55415  
Telephone: (612) 673-3622

**6. Assignment; Amendments; Waiver; Contract Complete**

- 6.1 Assignment.** Neither party may assign or transfer any rights or obligations under this Agreement without the prior consent of the other party and a written assignment agreement, executed and approved by the same parties who executed and approved this Agreement, or their successors in office.
- 6.2 Amendments.** Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original Agreement, or their successors in office.
- 6.3 Waiver.** If a party fails to enforce any provision of this Agreement, that failure does not waive the provision or the party's right to subsequently enforce it.
- 6.4 Contract Complete.** This Agreement contains all prior negotiations and agreements between the State and the City. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

**7. Liability**

The City and State will be responsible for their own acts and omissions, to the extent authorized by law. Minnesota Statutes § 3.736 governs the State's liability. Minnesota Statutes, Chapter 466 governs the liability of the City.

**8. State Audits**

Under Minnesota Statutes § 16C.05, subdivision 5, the City's books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by the State and the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this Agreement.

**9. Government Data Practices**

The City and State must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by the State under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the City under this Agreement. The civil remedies of Minnesota Statutes § 13.08 apply to the release of the data referred to in this clause by either the City or the State.

**10. Governing Law; Jurisdiction; Venue**

Minnesota law governs the validity, interpretation and enforcement of this Agreement. Venue for all legal proceedings arising out of this agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

## **11. Termination; Suspension**

- 11.1 *By Mutual Agreement.*** This Agreement may be terminated by mutual agreement of the parties or by the State for insufficient funding as described below.
- 11.2 *Termination for Insufficient Funding.*** The State may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the City. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the City will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if this Agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds.
- 11.3 *Suspension.*** In the event of a total or partial government shutdown, the State may suspend this Agreement and all work, activities, performance and payments authorized through this Agreement. Any work performed during a period of suspension will be considered unauthorized work and will be undertaken at the risk of non-payment.

## **12. Force Majeure**

Neither party will be responsible to the other for a failure to perform under this Agreement (or a delay in performance), if such failure or delay is due to a force majeure event. A force majeure event is an event beyond a party's reasonable control, including but not limited to, unusually severe weather, fire, floods, other acts of God, labor disputes, acts of war or terrorism, or public health emergencies.

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**STATE ENCUMBRANCE  
VERIFICATION**

Individual certifies that funds have been  
encumbered as required by Minnesota Statutes §  
16A.15 and 16C.05.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

SWIFT Encumbrance No. \_\_\_\_\_

**CITY OF MINNEAPOLIS**

The undersigned certify that they have lawfully  
executed this contract on behalf of the  
Governmental Unit as required by applicable  
charter provisions, resolutions or ordinances.

By: \_\_\_\_\_

(Department Head)

Date: \_\_\_\_\_

Approved by:

By: \_\_\_\_\_

(Finance Office)

Approved as to form:

By: \_\_\_\_\_

(Assistant City Attorney)

**DEPARTMENT OF  
TRANSPORTATION**

Approved:

By: \_\_\_\_\_

(District Engineer)

Date: \_\_\_\_\_

**COMMISSIONER OF  
ADMINISTRATION**

By: \_\_\_\_\_

(With delegated authority)

Date: \_\_\_\_\_